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TO RUEHC/SECSTATE WASHDC PRIORITY 9130
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RUCPDO/DEPT OF COMMERCE WASHINGTON DC PRIORITY
RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY 0696
RUEHC/DEPT OF LABOR WASHINGTON DC PRIORITY
RUEHRC/DEPT OF AGRICULTURE WASHINGTON DC PRIORITY
RUEHGV/USMISSION GENEVA 1637

UNCLAS SECTION 01 OF 05 PHNOM PENH 001438

SIPDIS

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STATE PLEASE PASS TO USTR-FOR BISBEE AND WEISEL
BANGKOK FOR USAID--KISSINGER, FCS--BACHER, USPTO--NESS, FAS--MEYER
HANOI FOR FAS--WADE AND RALPH, FCS--NAY
HO CHI MINH CITY FOR FCS--MARCHAK AND LE
GENEVA FOR USTR--PALLGEIER, STATE--CHICK
COMMERCE FOR ITA/OTEXA--D'ANDREA, ITA/MAC--MIKALIS
LABOR FOR ILAB--LI
AGRICULTURE FOR FAS/OCRA--RIKER
USPTO FOR CHAITOVITZ
STATE FOR EAP/MLS, H, DRL/ILCSR--MITTELHAUSER,
EEB/TPP/ABT--CLEMENTS, EEB/IFD/OIA, EEP/TPP/BTA, EEB/TPP/MTA,
EEB/TPP/IPE
STATE PLEASE PASS TO LIBRARY OF CONGRESS--FOR POOR
STATE PLEASE PASS TO USAID FOR DCHA/DG--LUDWIG
STATE PLEASE PASS TO US TRADE AND DEVELOPMENT AGENCY--FOR WINKATES
STATE PLEASE PASS TO US PATENT AND TRADEMARK OFFICE--FOR CHAITOVITZ

E.O. 12958: N/A

TAGS: [ETRD](#) [KTEX](#) [EINV](#) [ELAB](#) [EAGR](#) [CB](#)

SUBJECT: SUCCESSFUL TRADE TALKS FEATURE TARIFF, INVESTMENT, IPR,
AND LABOR ISSUES

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¶1. (SBU) Summary: A strong bilateral partnership and Cambodia's commitment to economic reform were on display November 21 as U.S. Trade Representative Susan Schwab and Commerce Minister Cham Prasidh led Trade and Investment Framework Agreement (TIFA) joint council discussions. The Commerce Minister listed an impressive number of trade and business-related laws passed since the last TIFA meeting in February, many of which help to meet Cambodia's WTO accession commitments. Cambodia is also taking substantial positive steps in protecting intellectual property rights and creating an environment conducive to collective bargaining, although other areas--such as passage of a long-awaited anti-corruption law--remain problematic. Minister Prasidh was outspoken in his enthusiasm for a bilateral investment treaty and in his worries that the all-important Cambodian garment sector cannot survive the end of U.S. safeguards against China, a concern which has led to his strong support for proposed U.S. legislation designed to allow duty-free imports of Cambodian garments. End Summary.

Commerce Minister Highlights Growth, Appeals for Tariff Review

¶2. (U) Commerce Minister Cham Prasidh's opening statement highlighted Cambodia's impressive economic performance and concerns about tariffs facing garments and other goods entering the U.S. market. Prasidh noted that the Cambodian economy has been growing at a average of 9.6% per year since 1999, with trade growing by 20% per year and foreign direct investment increasing 13-fold in just three years. Prasidh also said that the U.S. is Cambodia's number one export market, although Cambodian imports account for only 0.1%

of total U.S. imports. The Commerce Minister appealed to the U.S. to review its tariffs on Cambodian products, highlighting that due to the high tariff rates on garments, Cambodia pays as much in U.S. tariffs as does France, despite the enormous differences in development levels and trade volume between the two countries.

13. (U) In response, U.S. Trade Representative Susan Schwab praised the growth and increased global integration of the Cambodian economy and the country's engagement on trade issues. Schwab highlighted the recent conclusion of a handicrafts agreement which will allow for duty-free imports of handmade Cambodian textiles, noted growing U.S.-Cambodian trade, and the U.S. hope that the TIFA would continue to increase bilateral trade and investment. She noted the increased visits by U.S. officials, members of Congress and Congressional staffers, and business representatives this fall and hoped that the Cambodian Government would use these visits to underscore its economic potential.

Enhanced Integrated Framework

14. (U) Cambodia is one of three pilot least developed countries (LDCs) to participate in the Enhanced Integrated Framework, the World Trade Organization's (WTO) program to coordinate donor support for WTO implementation through a country-driven development strategy. Prasidh outlined recent developments in this area, including great progress towards fully funding the initiative and the upcoming launch of Cambodia's trade integration strategy. The strategy, based on the recently updated Diagnostic Trade Integration Study, identifies priority product or service sectors for promotion; highlights bottlenecks which hamper exports; links trade development more clearly with human development and poverty reduction goals; and seeks to better coordinate efforts by donors and various branches of the Cambodian government via a trade sector-wide approach (Trade SWAp). The first phase of this strategy will focus on capacity building and management of trade development, and is expected to be funded at approximately USD 1.5 million over 3 years.

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Legislative Progress on WTO Implementation

15. (U) Cambodia's parliament has been busy reducing its backlog of WTO-related legislation, a priority area identified in the TIFA Action Plan developed after the last TIFA meeting in February 2007, as well as other laws designed to promote a transparent and well-regulated business environment. The Parliament has passed a Criminal Procedures Code, Civil Procedures Code, and a nightshift amendment to the Labor Law; and relevant government ministries are implementing them, Minister Prasidh said. A sub-decree on the implementation of the Law on Marks, Trade Names and Acts of Unfair Competition was recently adopted and implementation is underway. The Parliament has passed Laws on Insolvency, Customs, Secured Transactions, Standards, Government Securities, Non-Government Securities, and Money Laundering but the laws have not yet been implemented. The National Assembly passed the Civil Code and the legislation is awaiting Senate approval. The Telecommunications Act, Law on Insurance, and Law on the Establishment and Management of Special Economic Zones have been or are being drafted, and Minister Prasidh requested USG comments on several of these draft laws. Ambassador Schwab agreed to provide comments on key pieces of legislation, including the Law on Insurance and on Government Securities, among others.

16. (U) Kun Nhem, Deputy Director of the Customs and Excise Department (CED), highlighted customs reform efforts that have accompanied the passage of the new Law on Customs. The CED is moving towards a WTO-compliant customs valuation system; automating customs processing with a system known as ASYCUDA, to be piloted at Sihanoukville port starting in December 2007; introducing a single administrative document; and developing new risk management procedures. Nhem also highlighted a February 2008 workshop on the development of a framework for World Customs Organization (WCO) implementation to be conducted in Cambodia in conjunction with the WCO. Nhem said the government would send invitations to this meeting to donors shortly. He thanked USAID for their efforts in

reviewing customs and other procedures as part of the Southeast Asia Commercial Legal and Institutional Reform (SEACLIR) report. Cambodia looks forward to hosting officials from other Southeast Asian nations who participated in SEACLIR evaluations at a regional seminar to be held in Siem Reap early next year.

Cambodia as a Model: IPR and Labor Issues

¶7. (U) Cambodia's recently increased efforts to strengthen intellectual property (IP) enforcement earned praise from Amb. Schwab, who noted that intellectual property is "another area where Cambodia is showing great potential to be a model for other countries." Minister Prasidh noted that Cambodia was the first country to link trade to labor standards and wanted to develop a program over the next couple of years that would similarly put Cambodia in the forefront in IP. He stated that draft Laws on Geographical Indicators and Layout Designs of Integrated Circuits are under review while the Cambodian Government is drafting sub-decrees on IP border measures, compact disc production and trade, and collective management organizations for remuneration to performers and music producers. Minister Prasidh stated that Cambodia wanted to develop a policy to link intellectual property and trade by ensuring that anyone producing IP-sensitive goods in Cambodia would be scrutinized to ensure that they did not export pirated materials. Cambodia would like to pursue parallel tracks of IPR enforcement and public awareness simultaneously, but will need significant USG support to do so, he said. Amb. Schwab praised the idea of a trade link and offered to send an intellectual property

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and capacity building team to Cambodia to assist and could enlist private sector groups in helping Cambodia define its vision of an IP model country.

¶8. (U) Turning to an area where Cambodia is acknowledged as a leader, labor conditions and worker rights, Minister Prasidh stated that the Ministry of Labor and Vocational Training was working closely with the International Labor Organization, the American Center for International Labor Solidarity, the Garment Manufacturers Association of Cambodia, and several unions to improve the process of certifying unions as most representative, an initiative stemming from the last TIFA meeting in February 2007. While other unions can be active at a factory, only most representative unions can engage in collective bargaining. At present, most representative union status is not enforced, and many garment factories have multiple unions competing for workers' allegiance and often engaging in harassment, intimidation, and illegal strikes, making collective bargaining all but impossible. Prasidh noted that he believes firmly in worker rights and believes that clarifying and enforcing rules about most representative status will encourage Cambodian unions to mature and help ensure that there are fewer production disruptions so Cambodian products can remain competitive with those from China and Vietnam. The Commerce Minister praised Ambassador Mussomeli's role in averting a general strike last year, and asked for continued embassy support on the most representative status issue. Ambassador Schwab offered to talk to the AFL-CIO and UNITE to see if they could provide support on this issue.

Investment Climate and Bilateral Investment Treaty

¶9. (U) Cambodia is poised for sustainable economic growth thanks to political stability, macroeconomic stability, a sound and transparent legal framework, and preferential access to key markets via the Generalized System of Preferences (GSP), Minister Prasidh said during a detailed presentation on the Cambodian investment climate. He emphasized that tourists have been coming to Cambodia in increasing numbers, with 2 million tourist arrivals expected this year. Garment exports have also grown, particularly to the U.S. market, where Cambodia has gone from being the 17th largest exporter to the 5th largest in just a few years. He also made a strong appeal for negotiating a bilateral investment treaty (BIT) with the U.S. Cambodia has already signed 21 BITs, including with Western countries such as Germany, France, and Australia. "The U.S. should be number 22," Prasidh opined, adding that he was ready to start

negotiating as soon as December 12.

¶10. (U) Amb. Schwab praised Cambodia's efforts to create a good investment climate, and asked for an update on the long-stalled anti-corruption law. Prasidh stated that it had been submitted to the Council of Ministers, but said that streamlining procedures and setting deadlines for government action--such as for customs clearance--were more important steps and were already underway. Surprised by Prasidh's proposal for launching BIT negotiations in December, Amb. Schwab explained that the USG was interested in a potential BIT in the future. She said that the process typically involved preliminary detailed exchanges of information to be sure that both sides were clear about the process and that all questions were answered. This would then be followed by an intense series of exchanges in person, by email, or by digital video conference and then begin a pre-negotiation phase. Only once the two sides have essentially reached agreement on all the issues are the start of formal negotiations announced, and these then tend to move quickly to an agreement. She said she appreciated his interest in a BIT and that her staff would be in touch on appropriate next steps.

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Technical Assistance

¶11. (U) The U.S. has provided most of the technical assistance (TA) requested at the February 2007 meeting, Amb. Schwab reported, including strengthening private sector ties via several business missions and providing information, documentation, and legal comments on standards and e-commerce. Additionally, the U.S. Trade and Development Agency plans to provide assistance in the area of energy development, customs, and telecommunications. Prasidh thanked the USG for its assistance, including the USAID-funded Southeast Asia Commercial Legal and Institutional Reform report (SEACLIR), which the Ministry intends to make public once finalized. The Commerce Minister presented an extensive five-page list of new TA requests ranging from seafood quality assurance guidelines to refurbishing hearing rooms. The two sides agreed that these requests will be considered over the coming months at the working level.

The McDermott NPDA Bill, the Doha Round, and Other Duty-Free Initiatives

¶12. (SBU) In response to a question from Prasidh about the prospects for passage of Sen. McDermott's New Partnership for Development Act (NPDA), proposed legislation which would allow duty-free entry for LDC products, Amb. Schwab noted that she was increasingly optimistic about Congress' stance on trade issues. She noted that the new Senate, which many had predicted would be strongly protectionist, just passed a Free Trade Agreement with Peru by a wide bipartisan margin and that a House vote was expected shortly. Nonetheless, the McDermott bill and a similar initiative by Smith and Feinstein were "not likely to move very far very fast," she remarked, as a large trade deficit and U.S. sensitivities around the garment industry hurt prospects for passage.

¶13. (SBU) Instead, Amb. Schwab said, USTR was more focused on efforts to extend duty-free, quota-free (DFQF) treatment to 97% of LDC goods via the Doha Round of WTO negotiations. USTR has begun the process of getting more input on what the U.S. will list in the 3% of tariff lines that the U.S. can exclude from DFQF treatment. Amb. Schwab emphasized that Cambodia stands to gain a lot from a completed Doha Round, and urged Cambodia to "advocate for its economic self-interest" rather than follow the efforts of some middle-income countries to water down the commitments.

¶14. (SBU) Despite statements from Schwab that the 3% of tariff lines would include garment lines plus other sensitive industries, Prasidh launched a passionate plea for garment tariffs to be included in the 97% of tariff lines that are subject to DFQF. Cambodia's garment industry is fighting to survive, the Commerce Minister said, with factories "bleeding white" trying to keep buyers placing orders in Cambodia through the end of U.S. safeguards

against China in December 2008. Putting garment tariff lines in the 3% exclusion group will send the wrong signal to buyers, Prasidh argued, saying that Cambodia's garment industry can't survive if put on the same footing as other (non-LDC) countries. He said that the Cambodian Government recognizes the importance of diversification of its economy, but that will take 10-15 years, while the U.S. safeguards on China will expire at the end of 2008. The garment industry was like a "time bomb" he said, with garment buyers ready to move out if there were any negative developments. Cambodia's aim is not to erode the garment industry in the U.S., but rather to cut into China's market share, he clarified. Cambodia was happy to play a role in the Doha Round short of leading the LDC group, he said, comparing the negotiations to a big boat in which China, Brazil,

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India, and others were all fighting over the steering wheel while Cambodia and the other LDCs were standing near the lifeboats.

¶15. (SBU) In response, Amb. Schwab repeated her encouragement to Cambodia to stand up against the middle-income countries who were attempting to hijack the Doha Round. Amb. Schwab also encouraged Cambodia to consider proposing a textile sectoral negotiation as part of the Non-Agricultural Market Access negotiations, which could help LDCs, including Cambodia. Further, Amb. Schwab pledged that DFQF will move forward in a transparent process and that the 3% of tariff lines excluded would not be prejudicial against specific countries as Cambodia fears.

Comment

¶16. (SBU) Cambodia's recent commitment to trade and investment reform warrants serious USG attention and action. Despite suffering from tremendous human capacity limitations, Cambodia has made significant progress since February's meeting, particularly in the area of legislative change. Cham Prasidh has a sophisticated and realistic understanding of the precariousness of Cambodia's successful economy, particularly as its narrow economic base in garment exports faces the impending end of U.S. textile safeguards against China. While some of Cambodia's requests would be tough to agree to--such as not including any textiles in the 3% of tariff lines excluded from DFQF access--others, such as the intense interest in a bilateral investment treaty, warrant USG action.